

BIRTH REGISTRATION & LOUISIANA PATERNITY LAWS

VR Packet 19 Rev. 1/05

I. Recordation of Surname/Paternity during Birth Registration – LRS 40:44 A.(1) states that a certificate of every childbirth shall be filed within 15 days with the vital records registry. The laws governing the assignment of a surname to a newborn child and the recordation of paternity differ depending upon the marital status of the mother at the time of the child's conception and birth.

Newborns Born of Marriage: If the mother of a newborn child was married at the time of conception and birth, or had not been divorced for more than three hundred (300) days, the child is presumed to be the child of her husband. The child's surname must be recorded as the surname of the husband of the mother, or if both the husband and the mother agree, the child's surname may be the maiden name of the mother or a combination of the surnames of the mother and the father in either order [R.S. 40:34B.(1)(a)(iii)]. The husband must be recorded on the birth certificate as the father of the child.

If the husband of the mother is not the biological father of the child, and the mother, her husband, and the child's biological father execute a three-party Acknowledgment of Paternity Affidavit, the child's surname may be recorded as the surname of the biological father, or if the mother, her husband and the child's biological father agree, the surname may be a combination of the surname of the mother and the biological father in either order [R.S. 40:34B.(1)(a)(vi)]. The name of the biological father will be recorded as the father of the child on the birth certificate. Use of the three-party affidavit process is limited to those cases wherein the husband and mother lived separate and apart continuously for a minimum of one hundred eighty days prior to the time of conception of the child and did not reconcile after the beginning of the one hundred and eighty-day period.

Newborns Born Outside of Marriage: The surname of a child born outside of marriage shall be the mother's maiden name. If the natural father is known and if both the mother and the natural father agree, the surname of the child may be that of the natural father or a combination of the surname of the natural father and the maiden name of the mother. "Natural father" means a father whose child has been filiated by subsequent marriage of the parents or by a notarial act, or a father who has formally acknowledged his child born outside of marriage or who has been judicially declared the father in a filiation or paternity proceeding. In the case of a child whose certificate of birth fails to list the name of the father, the name of the biological father who is proven to be the father by DNA testing shall be listed as the father upon submission, by the mother or the father, of a certified copy of the DNA test results establishing paternity of the biological father.

A man may establish his paternity of a child presumed to be the child of another man even though the presumption has not been rebutted. The action shall be instituted within 2 years from the child's date of birth unless the mother in bad faith deceived the father of the child regarding his paternity or unless the action pertains to Department of Social Services providing services per 42 USC 666. The act applies prospectively and retroactively to all pending and existing claims.

II. Change of Surname/Paternity After Birth Registration – If a child's birth is recorded and the parent(s) later decide to change the child's surname to that of the biological father and to record or correct the recordation of the paternity information, Louisiana law authorizes judicial and administrative processes to effect the changes. The processes differ depending upon whether the child is born of marriage or outside of marriage. When a vital record is changed, all copies of the original record should be returned to the Vital Records Registry for proper disposal.

Surname Change Only, Judicial: A certified copy of the petition and court ordered Name Change Judgment will suffice to change the surname shown on a registrant's birth certificate. In the case of a minor child, both parents shown on the birth certificate must be parties to the action unless an exemption is granted by the court. **Note: a Name Change Judgment cannot be used to add a man's name as father on a birth certificate or to remove the name of the presumed father [LSA – R.S. 13:4754.B.].**

In addition to the above process, a timely filed and successfully prosecuted disavowal of paternity by the presumed father (husband of the mother) in accordance with provision of the Louisiana Civil Code (C.C. Art. 187) will suffice to remove the presumed father's name from the birth certificate. In that situation, the child's surname would be changed to the maiden surname of the mother.

Child Born of Marriage: If the mother of a child is married at the time of conception and birth or has not been divorced for more than three hundred (300) days, the child is presumed to be the child of her husband. The husband's information must be entered in the paternity information space on the certificate. The child's surname must be recorded as the surname of the husband of the mother, or if both the husband and the mother agree, the surname of the child is recorded as the maiden name of the mother or a combination of the surnames of the mother and the father in either order [R.S. 40:34B.(1)(a)(iii)].

Or, if the husband of the mother is not the biological father of the child and the husband and mother lived separate and apart continuously for a minimum of one hundred eighty days prior to the time of conception of the child and did not reconcile after the beginning of the one hundred and eighty-day period and the mother, her husband, and the biological father agree to correct the paternity information on the birth certificate and to change the child's surname; then a properly executed three-party paternity affidavit will suffice to make the corrections [R.S. 40:34B.(1)(a)(vi)].

Or, a **paternity or filiation judgment** flowing from an action filed by the mother, her husband (ex-husband), or the biological father will suffice to displace the paternity information shown on the birth certificate with the name and information of the biological father

[R.S. 40:34B.(1)(a)(vii)]. The mother, her husband (ex-husband), and the biological father are indispensable parties to the action [LSA – R.S. 40:34B.(1)(a)(vi)] unless parental rights have been terminated or the person is deceased.

Child Born Outside of Marriage: If the child is born outside of marriage and unacknowledged at birth as provided in Civil Code Article 180, the child's name must be recorded as the mother's maiden name and the father's information must be left blank, except:

- a.) An Acknowledgment of Paternity affidavit executed by the mother and the biological father will suffice to add paternity information. The surname of the child may be changed to the surname of the biological father if the mother agrees or, if both the mother and the biological father agree, the surname of the child may be the mother's maiden name, or a combination of the surname of the mother and the surname of the biological father, in either order [R.S. 40:34B.(1)(a)(iv)],
- b.) The biological father is documented as the father of the child on the birth record if a certified copy of a DNA test documenting him as the biological father is submitted in accordance with Legislative Act 1251. The surname of the child will remain as the mother's maiden name.

If the child is eighteen years of age or older, the paternity affidavit must be accompanied by an original statement signed by the District Attorney in the child's parish of residence to the effect that the D.A.'s Office has no objection to the name change.

A **paternity or filiation judgment** flowing from an action filed by the mother or the biological father, the paternity judgment must clearly instruct the Vital Records Registry to change the surname of the child. If the filiation or paternity action is not initiated by the biological father, it shall have no affect on the surname of the child unless a name change is included in the judgment.

Sources of Acknowledgment of Paternity Affidavit Forms

Your Louisiana birthing hospital will make an Acknowledgment of Paternity affidavit form available to you during your hospital stay and will notarize the document after you and your child's father sign it. If you want to add paternity information to your child's birth certificate and change your child's name after birth registration, you may use a form printed from our web site or obtain a blank Acknowledgment of Paternity affidavit form from the Central Vital Records Registry Document Alteration Office at 325 Loyola Avenue, Room 102 in New Orleans or the Deputy Local Registrar at your Parish Health Unit.

Preparation of Acknowledgment of Paternity Affidavit – Acknowledgment of Paternity Affidavits are important legal documents. Adhere carefully to the following instructions:

- The paternity affidavit must be prepared using an appropriate Louisiana Acknowledgment of Paternity Affidavit format.
- Submit the original and one copy of the completed, signed and notarized affidavit to the Vital Records Registry. We will process your request, retain the original Affidavit, and forward the copy to the state Child Support Enforcement agency. The parents should also each retain a copy.
- Prepare the affidavit in ink. Black ink is preferred. Affidavits prepared in pencil will be rejected.
- Complete all items. Do not leave an item blank. If an item is "not applicable," so indicate.
- Avoid errors/erasures. If an error occurs, it is recommended that you prepare an entirely new affidavit.
- Verify the spelling of all names. The birth registrant's name will be recorded as shown on the affidavit. Affidavits that show discrepancies between parental and registrant surnames will be rejected as will affidavits that show erroneous dates, etc.
- Sign the affidavit in front of the notary and two witnesses. Only properly notarized affidavits can be accepted.
- Read and initial the Notice of Alternatives, Rights and Responsibilities inscribed on the third page of the affidavit and initial at the bottom of the page.

Note that LSA – R.S. 40:41 provides for a fine of up to ten thousand dollars or imprisonment for up to five years or both for any person convicted of willfully and knowingly providing false information or making a false statement in a Louisiana birth certificate or form presented in support of a birth certificate.

Processing an Acknowledgment of Paternity Affidavit

Acknowledgment of Paternity Affidavits executed in the hospital at the time of birth are submitted to the Vital Records Registry with the birth registration by hospital staff. They are processed and filed without charge. Your child's birth certificate will reflect the name and paternity information shown on the Affidavit.

Acknowledgment of Paternity Affidavits executed after your child's birth has been registered require special processing at the Central Vital Records Registry and statutory fees are applicable. Please be guided by the following:

Submit an appropriate original completed Acknowledgment of Paternity Affidavit, all existing certified copy(ies) of the child's birth certificate or a \$15 search fee if you cannot provide a copy, any supporting evidentiary document(s), the statutory filing fee of eighteen (\$18) dollars, plus the state charge of \$.50 per mail transaction to:

Louisiana Vital Records Registry, Attn: Document Alteration Section, P.O. Box 60630, New Orleans, LA 70160

The fee does not include the cost of a certified copy of the record after the amendment is filed. Please include an additional fee of \$9.00 for each copy of the amended certificate requested at the time of the amendment. Certified copies purchased at a later date will be fifteen dollars each plus the state charge of \$.50 for each mail transaction.

STATE OF LOUISIANA

**ACKNOWLEDGMENT OF PATERNITY AFFIDAVIT
CHILD BORN OUTSIDE OF MARRIAGE**

**NOTICE: You must read all three pages and initial the third page of this form before you sign the affidavit.
This is a legal document. Complete in ink and do not alter.**

SECTION I. CHILD'S INFORMATION

| | | |
|---|------------------|------------------------------------|
| Name of Child - First, Middle, Last (As it appears on birth certificate) | | Date of Birth - (Month, Day, Year) |
| Place of Birth - City, State | Name of Hospital | |
| Name of Child - First, Middle, Last (As the parents want it to appear on birth certificate) | | |

SECTION II. MOTHER'S INFORMATION

| | | | |
|---|---|---------------|---|
| Name of Mother - First, Middle, Last | | (Maiden Name) | Date of Birth - (Month, Day, Year) |
| Mother's Address | | | Mother's Phone Number |
| Mother's Place of Birth - City, State | Race (Circle) American Indian, Black, White, Asian If Other, List: | | Mother's Social Security Number |
| Mother's Employer - Name & Address | | | Mother's Occupation |
| Was Mother Married at Time of Birth Circle One: Yes No | If Yes, Name and Address of Husband | | |
| Does Mother Have Health Insurance Circle One: Yes No | If Yes, Name of Insurance Company and Policy No. | | State Medicaid: Circle One: Yes No |

SECTION III. FATHER'S INFORMATION

| | | |
|---|---|------------------------------------|
| Name of Father - First, Middle, Last | | Date of Birth - (Month, Day, Year) |
| Father's Address | | Father's Phone Number |
| Father's Place of Birth - City, State | Race (Circle) American Indian, Black, White, Asian If Other, List: | |
| Father's Employer - Name & Address | | Father's Occupation |
| Father's Guardian (If Father under age 18) Print Name | Guardian's Address | Guardian's Signature |
| Does Father Have Health Insurance Circle One: Yes No | If Yes, Name of Insurance Company and Policy No. | |

MOTHER: I certify that I am the MOTHER of the child named above and that all statements made herein are true and correct to the best of my knowledge. I am signing this Affidavit voluntarily and of my own free will. I acknowledge that the man named above is the biological father of my child. I give my consent name appear on the Certificate of Birth of my child. I further acknowledge that I have received oral and written notice of the legal rights and consequences res from my acknowledging the paternity of my child and I understand this notice.

MOTHER'S SIGNATURE

DATE

WITNESS

WITNESS

State of Louisiana, Parish of _____

Signature, then Print Name of Notary/Authorized Hospital Employee

Signed and Affirmed before me on the _____ day of:

State Notary Registration Number: _____

_____, _____.

My Commission Expires on:

FATHER: I certify that I am the biological FATHER of the child named above and that all statements made herein are true and correct to the best of my knowledge. I am signing this Affidavit voluntarily and of my own free will. I acknowledge that I have received oral and written notice of the legal rights and consequences resulting from my acknowledging the paternity of my child and I understand this notice.

FATHER'S SIGNATURE

DATE

GUARDIANS' SIGNATURE (If Father Under Age 18)

DATE

WITNESS

WITNESS

State of Louisiana, Parish of _____

Signature, then Print Name of Notary/Authorized Hospital Employee

Signed and Affirmed before me on the _____ day of

State Notary Registration Number: _____

_____, _____.

My Commission Expires on:

NOTICE OF ALTERNATIVES, RIGHTS AND RESPONSIBILITIES

This is a legal document. Signing the form is voluntary. Since this form has legal consequences, you may want to consult an attorney before signing.

When this Acknowledgement is properly completed and signed, the biological father's name is entered on the birth certificate and the man becomes the legal father of the child. This acknowledgement has the same effect as a court order establishing paternity and can be used as a basis for entering a child support order.

If either of you is not sure that this man is the biological father of this child, you should not sign the form. You should have a genetic test.

Mothers who were married to someone other than the biological father when the child was conceived or born or were divorced for less than three hundred days when the child was born must use the VRR-44 3P affidavit form, instead of this form.

RIGHTS AND RESPONSIBILITIES OF A PARENT

- Either party has the right to request a genetic test to determine if the alleged father is the biological father of the child.
- The alleged father has the right to consult an attorney before signing an acknowledgement of paternity.
- If the alleged father does not acknowledge the child, the mother has the right to file a paternity suit to establish paternity.
- After the alleged father signs an acknowledgement of paternity, he has the right to pursue visitation with the child and the right to petition for custody.
- Once an acknowledgement of paternity is signed, the father may be obligated to provide child support for the child.
- Once an acknowledgement of paternity is signed, the child will have inheritance rights and any rights afforded children born in wedlock.
- A party who executed a notarial act of acknowledgement may rescind the act, without cause, before the earlier of the following:
 - Sixty days after the signing of the act, in a court hearing for the limited purpose of rescinding the Acknowledgment.
 - A court hearing relating to the child, including a child support proceeding, in which the father is involved.

Thereafter, the acknowledgement of paternity may be voided only upon proof, by clear and convincing evidence, that such act was induced by fraud, duress, or material mistake of fact, or that the father is not the biological father.

BENEFITS FOR YOUR CHILD

Every child has the right to know his or her mother and father and benefit from a relationship with both parents.

Both of your names will appear on the child's birth certificate.

It will be easier for your child to learn medical histories of both parents and to benefit from health care coverage available to you.

It will be easier for your child to receive benefits such as dependent or survivor's benefits from the Veteran's Administration or from the Social Security Administration as well as share any estate should you die.

To indicate that you have read and understood this notice of alternatives, rights and responsibilities, please initial below. If you require further assistance you may call us at (504) 568-5152 and ask for the Alterations Section.

Mother's Initials _____ Father's Initials _____

Distribution: Original to Vital Records, copy for Support Enforcement and for each Parent

STATE OF LOUISIANA

ACKNOWLEDGMENT OF PATERNITY AFFIDAVIT
CHILD BORN OF MARRIAGE

**NOTICE: You must read all three pages and initial the third page of this form before you sign the affidavit.
This is a legal document. Complete in ink and do not alter.**

SECTION I. CHILD'S INFORMATION

| | | |
|---|------------------|------------------------------------|
| Name of Child - First, Middle, Last | | Date of Birth - (Month, Day, Year) |
| Place of Birth - City, State | Name of Hospital | |
| Name of Child - First, Middle, Last (As the parents want it to appear on the birth certificate) | | |

SECTION II. MOTHER'S INFORMATION

| | | | |
|---|---|---------------|---|
| Name of Mother - First, Middle, Last | | (Maiden Name) | Date of Birth - (Month, Day, Year) |
| Mother's Address | | | Mother's Phone Number |
| Mother's Place of Birth - City, State | Race (Circle) American Indian, Black, White, Asian If Other, List: | | Mother's Social Security Number |
| Mother's Employer - Name & Address | | | Mother's Occupation |
| Was Mother Married at Conception of Birth Circle One: Yes No | If Yes, Name and Address of Husband | | |
| Does Mother Have Health Insurance Circle One: Yes No | If Yes, Name of Insurance Company and Policy No. | | State Medicaid: Circle One: Yes No |

SECTION III. FATHER'S INFORMATION

| | | |
|---|---|------------------------------------|
| Name of Father - First, Middle, Last | | Date of Birth - (Month, Day, Year) |
| Father's Address | | Father's Phone Number |
| Father's Place of Birth - City, State | Race (Circle) American Indian, Black, White, Asian If Other, List: | |
| Father's Employer - Name & Address | | Father's Occupation |
| Father's Guardian (If Father under age 18) Print Name | Guardian's Address | Guardian's Signature |
| Does Father Have Health Insurance Circle One: Yes No | If Yes, Name of Insurance Company and Policy No. | |

MOTHER: I certify that I am the MOTHER of the child named above and that all statements made herein are true and correct to the best of my knowledge. I am signing this Affidavit voluntarily and of my own free will. I acknowledge that the man named above is the biological father of my child. I give my consent to have his name appear on the Certificate of Birth of my child. I declare and affirm that I lived separate and apart from the legal presumptive father for a minimum of one hundred and eighty days prior to the time of conception and have not reconciled since the beginning of the one hundred and eighty-day period. I further acknowledge that I have received oral and written notice of the legal rights and consequences resulting from my acknowledging the paternity of my child and I understand this notice.

MOTHER'S SIGNATURE

DATE

WITNESS

WITNESS

State of Louisiana, Parish of _____

Signature, then Print Name of Notary/Authorized Hospital Employee

Signed and Affirmed before me on the _____ day of _____,

State Notary Registration Number: _____

My Commission Expires on: _____

FATHER: I certify that I am the biological FATHER of the child named above and that all statements made herein are true and correct to the best of my knowledge. I am signing this Affidavit voluntarily and of my own free will. I acknowledge that I have received oral and written notice of the legal rights and consequences resulting from my acknowledging the paternity of my child and I understand this notice.

FATHER'S SIGNATURE

DATE

WITNESS

WITNESS

State of Louisiana, Parish of _____

Signature, then Print Name of Notary/Authorized Hospital Employee

Signed and Affirmed before me on the _____ day of _____,

State Notary Registration Number: _____

My Commission Expires on: _____

HUSBAND/ EX-HUSBAND OF THE MOTHER: I certify that I was married to the mother of this child at the time of conception or birth; however, I am not the biological father. Further, I declare and affirm that I lived separate and apart from the mother for a minimum of one hundred and eighty days prior to the time of conception and have not reconciled with her since the beginning of the one hundred and eighty-day period.

FATHER'S SIGNATURE

DATE

WITNESS

WITNESS

State of Louisiana, Parish of _____

Signature, then Print Name of Notary/Authorized Hospital Employee

Signed and Affirmed before me on the _____ day of _____,

State Notary Registration Number: _____

My Commission Expires on: _____

NOTICE OF ALTERNATIVES, RIGHTS AND RESPONSIBILITIES

This is a legal document. Signing the form is voluntary. Since this form has legal consequences, you may want to consult an attorney before signing.

When this Acknowledgement is properly completed and signed, the biological father's name is entered on the birth certificate in place of the name of the husband of the mother and the man becomes the legal father of the child. This acknowledgement has the same effect as a court order establishing paternity and can be used as a basis for entering a child support order.

If either of you is not sure that this man is the biological father of this child, you should not sign the form. You should have a genetic test.

Mothers who are married to someone other than the biological father or were married to someone other than the father when the child was conceived or have been divorced for less than three hundred days must have the agreement of their husband/ ex-husband to execute this affidavit. Further, the use of this affidavit is limited to cases where the husband and the mother lived separate and apart continuously for a minimum of one hundred and eighty days prior to the conception of the child and have not reconciled since the beginning of the one hundred eighty-day period. If the agreement of the husband cannot be obtained or if the couple cannot meet the statutory requirements, this affidavit cannot be used and in order for the biological father's name to be added to the birth certificate, a court must establish paternity in accordance with R.S. 40:34B.(1)(a)(vii).

RIGHTS AND RESPONSIBILITIES OF A PARENT

- Either party has the right to request a genetic test to determine if the alleged father is the biological father of the child.
- The alleged father has the right to consult an attorney before signing an acknowledgement of paternity.
- If the alleged father does not acknowledge the child, the mother has the right to file a paternity suit to establish paternity.
- After the alleged father signs an acknowledgement of paternity, he has the right to pursue visitation with the child and the right to petition for custody.
- Once an acknowledgement of paternity is signed, the father may be obligated to provide child support for the child.
- Once an acknowledgement of paternity is signed, the child will have inheritance rights and any rights afforded children born in wedlock.
- A party who executed a notarial act of acknowledgement may rescind the act, without cause, before the earlier of the following:
 - Sixty days after the signing of the act, in a court hearing for the limited purpose of rescinding the Acknowledgment.
 - A court hearing relating to the child, including a child support proceeding, in which the father is involved.

Thereafter, the acknowledgement of paternity may be voided only upon proof, by clear and convincing evidence, that such act was induced by fraud, duress, or material mistake of fact, or that the father is not the biological father.

BENEFITS FOR YOUR CHILD

Every child has the right to know his or her mother and father and benefit from a relationship with both parents.

Both of your names will appear on the child's birth certificate.

It will be easier for your child to learn medical histories of both parents and to benefit from health care coverage available to you.

It will be easier for your child to receive benefits such as dependent or survivor's benefits from the Veteran's Administration or from the Social Security Administration as well as share any estate should you die.

To indicate that you have read and understood this notice of alternatives, rights and responsibilities, please initial below. If you require further assistance you may call us at (504) 568-5152 and ask for the Alterations Section.

Mother's Initials: _____

Father's Initials: _____